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GUEST: **Francisco José AGUILAR URBINA**
Chairman
UN Human Rights Committee

JOURNALISTS: Thalif Deen, Inter Press Service
Mercedes Hervas, *El Periodico* (Barcelona)

MODERATOR: Michael Littlejohns

HUMAN RIGHTS

Francisco Jose AGUILAR URBINA, Chairman of the United Nations Human Rights Committee, discusses the work of this important UN semi-judicial body. It is composed of 18 members of high moral character and recognized competence in the field of human rights. States parties to the International Covenant on Civil and Political Rights are required to submit to the Committee reports on the measures they take to protect those human rights. The Committee examines the reports in the presence of representatives of the reporting States. So far, 133 States have become parties to the International Covenant. The Committee does not review certain rights, such as the right to life of the unborn foetus, because the Covenant is silent on this matter. Professor Aguilar Urbina believes that education is the most effective tool for the enjoyment of human rights.

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Director: Livingston Hinckley
Production Assistant: Ellen McGuffie

ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

One of the basic requirements for human dignity is respect of human rights and fundamental freedoms for all, without distinction as to race, religion, sex or language. To achieve these often controversial rights, the United Nations has set standards to deal with the economic, social, political and cultural rights of all individuals. It also established the Human Rights Committee to monitor Governments' compliance with those standards and to report on any progress made in the enjoyment of those rights.

Our guest today, Francisco José Aguilar Urbina, is currently Chairman of the Human Rights Committee. Joining me to talk with Mr. Urbina are Thalif Deen of Inter Press Service and Mercedes Hervas of *El Periodico*, of Barcelona.

Professor Aguilar Urbina, welcome to World Chronicle.

AGUILAR URBINA: Thank you very much, Mr. Littlejohns.

LITTLEJOHNS: Mr. Chairman, we are perhaps a little more familiar with the UN Commission on Human Rights than with the Human Rights Committee – no disrespect intended. But the Commission is very often involved in political controversies concerning human rights in a number of countries – for example, Cuba – and often meeting in Geneva to discuss these matters. Tell us the difference between your Committee and the Commission.

AGUILAR URBINA: Well, basically, the Commission is a political body which depends from the General Assembly. The Committee is a judicial body, or semi-judicial, if I may, and is the organ of the Covenant on Civil and Political Rights, the International Covenant*. By the way, this year the Covenant will turn 30 years old on December 12, and the Committee will turn 20 years old, which is – I guess we'll be celebrating these two events later on during the year within the Committee. The Committee, as I said, is a judicial body, semi-judicial body. We apply the law, we apply the Covenant.

LITTLEJOHNS: But the 18 members of the Committee are appointed in their personal capacities, not as representatives of States.

AGUILAR URBINA: That's the other main difference between the Committee and the Commission. People serving on the Commission are representatives of States; we are

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* The International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly 16 December 1966, entered into force 23 March 1976.

independent experts. And that's what gives the Committee also a certain cloak of respectability in the international human rights community.

LITTLEJOHNS: We have this document, the Universal Declaration of Human Rights, which is almost 48 years old. Unfortunately, many Member States, although subscribing to it, seem to be honouring it "in the breach", as they say, and the UN doesn't seem to have any enforcement capacity. What is the point, really, of having a Commission and a Committee going over these alleged violations of human rights which seem to be so frequent – and of course your meetings are quite frequent too – when you really can't do very much about it?

AGUILAR URBINA: Well, I guess it's the same problem you have with crime in a society. And you would say, "Why have a police system, a court system –?"

LITTLEJOHNS: Yes, but the police have enforcement measures, you know, they can sock you –

AGUILAR URBINA: Well, you have countries, for example – and you find them all over the world – where the police don't have much power, or where courts don't have any power towards certain sectors of the population which are impugn from any court system. So then you would say, "Why have them, when they only apply to the puny criminal?" When you work in the law, there's two problems you usually see when things go bad. And I would say that in most cases, and in many countries, things go quite well. The other thing is that even when sometimes we give recommendations we don't get anywhere; when we give one recommendation and something gets done, it's worth the work.

DEEN: Professor, there are many Southeast Asian countries, particularly countries like Singapore and Malaysia, that have accused the United Nations of placing heavy emphasis on political rights and human rights as against economic and social rights. And what they say is that the right to food and the right to development are more important than a free press or a multi-party government. And the argument goes, what good is freedom on an empty stomach? What is your reaction to this?

AGUILAR URBINA: Well, my position is that, you know, it works the other way around also. I mean, what's a full stomach without freedom? It's not worth it. The thing is, you basically have certain people that say political and civil rights are more important, or economic, social and cultural rights are more important – and I don't think you can talk that way. I think every single right is needed. What is an empty stomach without food – I mean, what's freedom on an empty stomach, as you put it? It's nothing. But if my stomach's full but I'm almost dead in a prison, if I cannot express myself, if I cannot grow as a person, it's not worth it.

LITTLEJOHNS: Thalif mentioned Singapore and Malaysia. Do those countries cooperate with your Committee?

AGUILAR URBINA: Well, neither of those countries are member states of the International Covenant on Civil and Political Rights, so we don't have the –

LITTLEJOHNS: So they're automatically excluded from having to report to your Committee.

AGUILAR URBINA: They don't report to us, basically. But we do have other countries in the area – for example, Vietnam is a party; we have – well, both Koreas; we have the Philippines; and we also have –

LITTLEJOHNS: Cambodia?

AGUILAR URBINA: No, Cambodia is not yet a party, but Thailand is very interested in acceding to the Covenant.

DEEN: What about Indonesia?

AGUILAR URBINA: Indonesia is not a party yet. India is, Sri Lanka is, and Pakistan is.

DEEN: Yes, but it's interesting that they also argue that the explosive economic growth in that part of the world – South Korea, Taiwan – has all been achieved under authoritarian regimes; there's no political democracy.

AGUILAR URBINA: And then you have all the countries in Western Europe which have achieved a lot under liberty; and then you have extremely poor countries, the poorest countries in the world, those countries that you have almost no hope that they would develop, that usually have lived under dictatorships. So, a dictatorship doesn't mean that you'll get anything.

HERVAS: You mentioned before that the International Covenant for Civil and Political Rights is about to be 30 years. So, can you summarize for our viewers the main provisions of this Covenant?

AGUILAR URBINA: Well, basically, what we have is civil and political rights – that is, the right to life; the right not to be tortured or subjected to ill treatment; freedom of the person, that is, the right not to be put in prison arbitrarily or illegally; freedom of conscience, expression, religion; freedom of association; the right to privacy; the right to vote, to be elected, to participate in political affairs; non-discrimination; the rights of minorities; rights within the family –

HERVAS: So it's a very wide range.

AGUILAR URBINA: It's very wide – fair trial – it's the widest range.

HERVAS: And of those rights, which ones are still most violated?

AGUILAR URBINA: It depends on the country. For example, this session we had countries that had problems with the right to life and to fair trial a lot. In some countries it was because the tribunals were set not to give any rights; in other countries the tribunals are there, but they don't function at all – no one gets really accused when they have committed the crimes; other countries have problems with detention, arbitrary detention, torture. We always get the whole score of rights that we have to go into.

HERVAS: How many countries have ratified the Covenant?

AGUILAR URBINA: One hundred and thirty-two, to date. And mostly it has been in the past few years. When I came to the Committee seven years ago, eight years ago, actually, there were seventy-something. We're up to a hundred and thirty-five.

DEEN: This is the Civil and Political Rights Covenant.

AGUILAR URBINA: This is Civil and Political Rights.

DEEN: You know, one of the things that is protected by this Covenant is the right of self-determination to all peoples; but, I remember, at the Human Rights Conference in Vienna a couple of years ago this was a very controversial issue. How do you distinguish between self-determination, a freedom fighter and a terrorist? Has that been resolved at all?

AGUILAR URBINA: I don't think that has been resolved. The main issue is that in all cases you have to respect human life. And who is a terrorist is something that really you can never say. It depends also a lot on where in the equation you are. I mean, someone that might be a terrorist for country A might be a freedom fighter for country B. It depends on the games of ideology and convenience, many times.

HERVAS: Another controversial point is also the fact that the Covenant states the right to life to everyone and, at the same time, accepts the death penalty, although a few years ago there was approved another optional protocol to abolish the death penalty. So the question is, how many countries are joined in this Second Optional Protocol*? Is there a movement against the death penalty?

AGUILAR URBINA: Well, if I may say, very few, to my taste. But let me put the thing a little bit differently, because it's not that the Covenant accepts the death penalty; the position of the Committee is another one – the Covenant does not prohibit the death penalty, and that makes a big difference. And the position of the Committee is that the death penalty should, in any case, disappear. And we do not condemn any State for having

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* The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the United Nations General Assembly 15 December 1989, entered into force 11 July 1991.

the death penalty, because the Covenant does not prohibit it, but, on the other hand, we encourage States to abolish it.

HERVAS: But is there a different treatment for these countries that have accepted the Optional Protocol refusing to impose the death penalty and the ones that still can claim that they can still use it? Because the Covenant, you know ...

AGUILAR URBINA: Well, there is certainly different treatment, because for countries that have not done away with the death penalty, we do put more interest in the ways it works: if it's abusive, if it's not abusive; if it fits within that non-prohibition that the Covenant states – if, for example, women who are pregnant can be executed in that country, if children are being executed in that country. So there are more stringent measures that the Committee asks from a State that has it than what we can do with a State that does not have it. In those cases, unless there are extra-judicial executions, we basically don't go into the matter.

LITTLEJOHNS: Professor, here in the United States, as you well know, the term "right to life" has a particular meaning – namely, the right to life in that there should be no abortion. Some people take the view that there should be no abortion in any circumstances, even if the life of the mother is at risk. Has your Committee, or has the Commission, or the UN generally, gone into that at all, the question of the "right of the foetus", quote-unquote?

AGUILAR URBINA: No, the Committee – the UN, in general, has not, and the Committee doesn't go into this specific question, basically because we have countries that accept it in all cases and we have countries that don't accept it in any case, and the Covenant is silent on this specific matter. So the Committee has decided not to go into this matter. If a country does not accept it, it's the law in that country; if a country does accept it, it's the law in that country. Now, the other thing is that among the 18 members you have a range of opinions on abortion that I think would mean that the Committee would never –

LITTLEJOHNS: Would never get a consensus.

AGUILAR URBINA: – get a consensus, any kind of thing that remotely resembles a consensus.

LITTLEJOHNS: So you decided to leave well enough alone.

This is **World Chronicle**. Our guest is Francisco José Aguilar Urbina, Chairman of the United Nations Human Rights Committee.

HERVAS: Mr. Aguilar Urbina, in practical terms, can you tell us how your Committee works?

AGUILAR URBINA: Well, we have two main procedures. One procedure is the one that is normal for every country that is a party to the International Covenant on Civil and Political Rights, which is, the country has to give us periodic reports – one year after

ratifying or acceding to the Covenant, and then every five years. And then we examine those reports. And how we do it is we get the report that comes from the country, and then we get all information available from other sources. We sort of digest everything, and then we digest the main issues with the representatives of those States. The other procedure we have is the one of our Optional Protocol – or the first Optional Protocol*, as some like; it's better known now that we have a Second Optional Protocol – and that is individual communications: that is, a person that comes from a State that has ratified also the Optional Protocol – and that's about 85 States right now – can basically denounce or sue his own State for violations of human rights, of civil and political rights. And then we examine, not the general situation of human rights, but the specific violation or alleged violation to this person.

HERVAS: But you are a last resort? Or these individuals can go straight to you before driving their claims to other instances? For example, their own national courts, or international organizations?

AGUILAR URBINA: When they come to us they have to have exhausted all internal jurisdictions. That is, it is sort of a last resort, as you put it. Now, when there are conflicting jurisdictions, international jurisdictions, as, for example, the case in Europe – the European Court and the Commission**, which is still working, and our Committee, or, in the American system, the Commission and the Court*** and the Committee, then we have to see if the case is in both jurisdictions, and then the person has to decide which one of them to drop. And basically what we do is, if it was introduced before to another jurisdiction, then we drop it. And then, for example, if the Inter-American Commission comes to us and says, "Do you have the case of Mr. X?" and we have it, they would say [to the person], "Well, you know, you already filed that in the Human Rights Committee." So there is always a kind of getting together to discuss – well, not to discuss, but to see what cases we have in both systems.

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* The Optional Protocol to the International Covenant on Civil and Political Rights, entered into force 23 March 1976.

** The European Court of Human Rights and the European Commission of Human Rights (Council of Europe).

*** The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (Organization of American States).

DEEN: There's an oft-repeated charge that most UN bodies focus heavily on developing countries as against Western countries. And, you know, this concept of special rapporteur –

LITTLEJOHNS: You mean speaking of alleged violations?

DEEN: Right, on questions of human rights. And you have – the UN usually appoints these special rapporteurs to go into countries and report. And I'm told – I don't know how far it's true, I stand corrected – that no special rapporteur has been sent to any Western country. Is this correct?

AGUILAR URBINA: I think that is correct. That is basically correct. Except I don't remember if back at the end of the '60s or the beginning of the '70s there was something in Greece, but I think that – well, that was – I'm sure there was a European –

LITTLEJOHNS: That's when the colonels were –

AGUILAR URBINA: When the colonels.... I guess the – you know, the UN did not. No, I don't think that that has to do with being Western or not Western, or developing; it has to do – I mean, unfortunately, most violations have happened in the developing world. But, for example, the case of Chile: Chile was subject to a special decision from the Commission, and it –

LITTLEJOHNS: This was during the Pinochet –

AGUILAR URBINA: During the Pinochet regime. Isn't that a Western country? It's a very Western country with a very Western culture, Catholic, typically Western European culture, but developing. Where are you going to put Chile?

DEEN: Yes, when I said Western, I meant industrial country.

AGUILAR URBINA: Well, then you have –

DEEN: Chile is a developing country.

AGUILAR URBINA: For example, you have the case of Japan, which is not Western, it's an Eastern Asian country with an Eastern Asian culture, but also industrialized. And so, those distinctions –

DEEN: But even your own Committee – you had five countries, I think, right? And only one, Spain, was an industrial country, the rest were all developing countries.

AGUILAR URBINA: Oh, no, no, but that's another thing, that's completely different. Because we examine the countries on a periodical basis. For example, next time we'll have Switzerland and – well, Nigeria and Peru, which are coming, and Brazil. So, that will be one, two, three, but there are certain times when we've had almost only industrial countries, and then one or two developing. It depends on how the reports come to us. It doesn't –

LITTLEJOHNS: Are you going to tackle Switzerland on the question of the right to vote?

AGUILAR URBINA: Well, we've got to tackle Switzerland on every single issue within the articles of the Covenant, the rights protected by the Covenant.

LITTLEJOHNS: And, for example? I mean, you have – presumably, they haven't done their report yet?

AGUILAR URBINA: No, they did. That's why we are examining them.

LITTLEJOHNS: Oh, I see.

AGUILAR URBINA: Once we have a report in writing, then we decide that we are going to examine that report we have in writing. And that's why, in our case, in the case of the Human Rights Committee, we don't work as special cases and special rapporteurs. For example, we have Mauritius now, and we found that, of all the countries we examined this time, Mauritius was the one with the least problems, even less problems than Spain. So you have that; it was precisely a developing country from Africa, the country that we found whose laws and policy situation were more compatible with the Covenant.

DEEN: A couple of years ago there was a proposal that human rights should be linked to development assistance. Do you advocate something like this?

AGUILAR URBINA: I personally don't. I think that you have to develop wholly a country. And I think development assistance should include a human rights part to it. It's not that you link in all cases, that you say, if you're going to develop a country, that country has to have an excellent human rights record.

DEEN: It shouldn't be a condition?

AGUILAR URBINA: It shouldn't be a – let's put it this way: It shouldn't be a condition to give aid, but human rights should be part of the aid.

LITTLEJOHNS: What about territories that are under occupation by another State? Do you deal with their problems?

AGUILAR URBINA: Well, if that State is a party to the Covenant, we do. For example, we dealt with Iraq just a little after the invasion of Kuwait, so the position of the Covenant was that, well, Kuwait was not a party, but since Kuwait was within Iraq's jurisdiction for the time that it was within Iraq's jurisdiction, Iraq had to respond for what was happening in Kuwait.

LITTLEJOHNS: And what about the Israeli-occupied territories?

DEEN: The West Bank and Gaza.

LITTLEJOHNS: West Bank and Gaza.

AGUILAR URBINA: Well, we haven't had yet the opportunity to deal with Israel. Israel is a very new country to the Covenant. So when we –

LITTLEJOHNS: I'm sorry, Israel is what?

AGUILAR URBINA: Is a very new country in our system, in the International Covenant system. So when we deal with that, when we have the initial report of Israel and we examine the initial report of Israel, surely for the period that the Covenant was already in force and Israel was exerting its jurisdiction over the occupied territories, Israel would have to report to us on that.

HERVAS: Some of the violations of human rights – like torture, or killings, or lack of liberty – are very evident. But it seems to me that others – like, for example, let's say invasion of privacy, thanks to advancements in technology – are not so evident. So, in your opinion, what is the main challenge for the protection of human rights ahead?

AGUILAR URBINA: Well, that's difficult. I think the main challenge is that people – and this is my very personal opinion – are less educated each day more. I don't know why that's happening, but –

HERVAS: Less educated?

AGUILAR URBINA: Yes.

HERVAS: With all the media attention –

AGUILAR URBINA: With all the media attention and everything, people spend less time educating themselves. And I think this is a real disgrace. And part of that is that we're getting people who are more intolerant, people who know less about the rest of the world; and, precisely because of that, the main challenge for me, the main challenge for human rights today is uneducated people, intolerance rampant all over the world.

HERVAS: And what can be done to face that?

AGUILAR URBINA: I hope countries really put the resources to educate their people, to make people less ignorant.

DEEN: And you think human rights should be a subject in schools and universities?

AGUILAR URBINA: I don't think, I am convinced that they should be one of the main subjects. But the main issue is – and when you educate people, when you really educate your people, you're already – it doesn't matter what you're doing, you're already giving them the opportunity to respect human rights. Even when the subject is not there.

HERVAS: So would you agree with the statement that we know even better and better what the rights are, and we are violating them even more and more, as we approach the 21st century?

AGUILAR URBINA: No, I don't think that's absolutely true. I think people are spending more time playing little games in their computers, or using the Internet to visit weird pages in the Web, but not really using the Internet to educate themselves, using the Internet to know other cultures. I would love to see all people using the Internet and getting into the home page, for example, of the French Ministry of Culture, which is great,

or using the Internet and going to a page in Thailand. And the next thing that they go and look for is Indian cooking. And, you know, for someone in the US or back in Costa Rica or Argentina to go to the home page of Mrs. Bhagwati, for example, in India, and get her recipe for chicken tandoori.

LITTLEJOHNS: I'm afraid we have to leave your chicken tandoori, Professor Aguilar Urbina! That's all the time we have. Thank you for being with us on this edition of **World Chronicle**. Our guest has been Francisco José Aguilar Urbina, Chairman of the United Nations Human Rights Committee. He was interviewed by Thalif Deen of Inter Press Service and Mercedes Hervas of *El Periodico* of Barcelona. I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.

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